STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of AARON ROCHE, BRIEANNA BURNETT and JAKE EARL BURNETT, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

JOHN EARL BURNETT,

Respondent-Appellant,

and

KAREN JOAN ROCHE,

Respondent,

and

TIMOTHY DYWANE MCLIECHEY,

Respondent.

UNPUBLISHED
June 5, 2001

No. 226853
Calhoun Circuit Court
Family Division
LC No. 00-001212-NA

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

KAREN JOAN ROCHE,

Respondent-Appellant,

and

No. 226999
Calhoun Circuit Court
Family Division
LC No. 00-001212-NA

JOHN EARL BURNETT,

Respondent,

and

TIMOTHY DYWANE MCLIECHEY,

Respondent.

Before: Holbrook, Jr., P.J., and Hood and Griffin, JJ.

PER CURIAM.

In this consolidated appeal, respondent-father and respondent-mother appeal as of right from a family court order terminating their parental rights under MCL 712A.19b(3)(g) and (j); MSA 27.3178(598.19b)(3) (g) and (j). Respondent-mother's rights were also terminated under MCL 712A.19b(3)(i); MSA 27.3178(598.19b)(3)(i). We affirm.

The children were removed from respondent-mother's custody following an October 1999 drug raid of her apartment. At the time, the two oldest children were at home with a 16-year old male, who was arrested during the raid. Respondent-mother testified that the 16-year old had been selling crack cocaine from her apartment, and that her children had been present in the apartment during some of the sales. Respondent-mother admitted to a long history of abuse of cocaine and alcohol, and there was evidence that she had also regularly used heroine in the year prior to the removal of these three children. At the time of the raid, respondent-father was in jail, having been arrested for assaulting respondent-mother with a bottle. Apparently, respondents' youngest child was cut on the ear by flying glass when respondent-father broke the bottle over respondent-mother's head. Respondent-mother testified at trial that been repeated physically violent toward her in the past ten years, and there was evidence that she and the children had several times sought shelter after such episodes. It is unchallenged that respondent-mother's parental rights to another child were terminated in 1990 after lengthy intervention by the state.

Once a trial court determines that one or more grounds for termination has been established by clear and convincing evidence, the trial court must terminate parental rights unless "there exists clear evidence, on the whole record, that termination is not in the child's best interests." *In re Trejo Minors*, 462 Mich 341, 354; 612 NW2d 407 (2000).

Docket No. 226853

Respondent-father argues that the trial court erred in terminating his rights because there is no evidence that at the preliminary hearing either the court read the allegations raised against him, or that he waived reading of those allegations. MCR 5.965(B)(3). However, respondent-father has failed to establish that these events did not occur. Even if respondent-father could

establish that such a procedural error occurred, we disagree that reversal is required. Such a procedural error does not undermine either the validity of the court's exercise of jurisdiction, *In re Hatcher*, 443 Mich 426, 437; 505 NW2d 834 (1993), or the court's findings. Therefore, we conclude that respondent-father has failed to establish the existence of error requiring reversal.

Docket No. 226999

Respondent-mother argues that the court erred in finding that the statutory grounds had been met without first giving her more time to comply with the case service plan. We disagree. We review the family court's findings under the clearly erroneous standard. *In re Miller*, 433 Mich 331, 358; 445 NW2d 161 (1989). "A finding is clearly erroneous where the reviewing court is left with a firm and definite conviction that a mistake has been made." *In re Jackson*, 199 Mich App 22, 25; 501 NW2d 182 (1993).

Initially, we note that respondent-mother's argument does not implicate the court's findings with regard to subsection 19b(3)(j) and (i), either of which alone is a sufficient statutory ground for termination. *In re Trejo, supra* at 355. In any event, respondent-mother's long-standing problems and repeated inability to rectify them, despite the continuing involvement of the state, supports the conclusion that there is no reasonable expectation that she will be able to provide proper care and custody for her children within a reasonable time. MCL 712A.19b(3)(g); MSA 27.3178(598.19b)(3)(g).

There is evidence in record that respondent-mother failed to even minimally comply with the case-service plan established for her by petitioner. The evidence shows she failed to provide most of her required urine screens, was asked to leave an in-patient drug rehabilitation program she was attending, and has failed to follow up this residential treatment with the suggested course of after-care treatment. Indeed, there was testimony offered that respondent-mother had admitted to using drugs immediately after leaving the residential treatment program. She also did not attend the parenting classes petitioner required her to attend, and twice presented herself as intoxicated to two different mental health professionals assigned to her case.

As for her past history, the record shows that her parental rights in another child were terminated after repeated failures to address and rectify those circumstances of her life that brought her situation to the attention of state authorities. Those circumstances also included persistent substance abuse. Her ten-year relationship with respondent-father has been marked by mutual drug abuse and episodes of extreme physical violence, and yet during the pendency of the proceedings below respondent-mother continued to associate with him. Given these circumstances, we conclude that the trial court did not clearly err in finding that the statutory grounds for termination had been established by clear and convincing evidence. MCR 5.974(I); *In re Miller, supra* at 337.

Affirmed.

/s/ Donald E. Holbrook, Jr.
/s/ Harold Hood
/s/ Richard Allen Griffin S